

HOUSE No. 2500

By Mr. Larkin of Pittsfield, petition of Peter J. Larkin and James B. Leary relative to providing tax incentives for the purchase and use of clean alternative transportation fuels. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT PROVIDING INCENTIVES FOR THE PURCHASE AND USE OF CLEAN, ALTERNATIVE TRANSPORTATION FUELS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 6 of chapter 62 of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 adding at the end thereof the following subsection:—

4 (h)(1) As used in this subsection, the following words and
5 phrases shall have the following meanings:

6 “Alternative fuel”, any fuel designated as such on an annual list
7 issued by the department of environmental protection, including
8 methanol, denatured ethanol, and other alcohols; mixtures con-
9 taining eighty-five percent or more by volume of methanol, dena-
10 tured ethanol, and other alcohols with gasoline or other fuels;
11 natural gas; liquefied petroleum gas; hydrogen; coal-derived
12 liquid fuels; fuels (other than alcohol) derived from biological
13 materials; electricity (including electricity from solar energy); and
14 any other fuel that the department of environmental protection
15 determines is substantially not petroleum.

16 “Alternative fuel vehicle”, a motor vehicle, as defined in
17 section one of chapter ninety, which the department of environ-
18 mental protection determines to: (1) operate exclusively on an
19 alternative fuel; and (2) meet applicable state and federal safety
20 and emission standards. In addition, for an alternative fuel vehicle
21 less than six thousand pounds gross vehicle weight rating, the
22 alternative fuel vehicle shall meet ultra low emission, inherently
23 low emission, or zero emission vehicle standards, as defined in

24 regulations promulgated by the department of environmental pro-
25 tection, for total vehicle emissions. For an alternative fuel vehicle
26 equal to or greater than six thousand gross vehicle weight rating,
27 the alternative fuel vehicle shall meet federal emission standards
28 for a new comparable vehicle. The department of environmental
29 protection shall publish an annual list of alternative fuel vehicles.

30 “Comparable conventionally-fueled motor vehicle” or “compa-
31 rable vehicle”, a motor vehicle which is (1) commercially avail-
32 able at the time the comparability of the vehicle is being assessed;
33 (2) powered by an internal combustion engine that uses petroleum
34 as its fuel source; and (3) provides passenger capacity or payload
35 capacity the same or similar to the alternative fuel vehicle to
36 which it is being compared. The department of environmental pro-
37 tection shall publish an annual list, to be updated as needed, of
38 comparable conventionally-fueled motor vehicles.

39 “Facility”, any structure, equipment, apparatus, wires or piping
40 used with dispensing or charging equipment necessary to dispense
41 an alternative fuel as determined by the division of energy
42 resources in consultation with the department of environmental
43 protection.

44 “Incremental cost”, the difference between the price paid for
45 the alternative fuel vehicle and the average retail cost of a compa-
46 rable conventionally-fueled motor vehicle. The department of
47 environmental protection shall publish an annual list, to be
48 updated as needed, of the average retail prices of comparable con-
49 ventionally-fueled motor vehicles to be used as the basis for deter-
50 mining incremental cost.

51 (2)(a) A credit shall be allowed against the tax imposed by this
52 chapter in an amount equal to fifty percent of the incremental cost
53 of purchasing a new alternative fuel vehicle and fifty percent of
54 the cost of converting a petroleum fueled motor vehicle to an
55 alternative fuel vehicle. For an originally equipped alternative fuel
56 vehicle, the credit allowed shall be claimed in the first taxable
57 year in which the vehicle is registered. For a motor vehicle which
58 has been converted to an alternative fuel vehicle, the credit
59 allowed shall be claimed in the first taxable year in which such
60 conversion occurs. Conversion costs eligible for such credit shall
61 include the cost of purchasing conversion equipment necessary to

62 convert a motor vehicle to an alternative fuel vehicle and the labor
63 costs associated with installing such conversion equipment.

64 (b) A credit also shall be allowed against the tax imposed by
65 this chapter on an owner of a facility in an amount equal to forty
66 percent of the cost of constructing any facility in Massachusetts,
67 available to the public where feasible, for fueling alternative fuel
68 vehicles. Facility costs eligible for a credit under this paragraph
69 include the cost of purchasing fueling equipment, charging equip-
70 ment and other materials necessary for the facility to fuel alterna-
71 tive fuel vehicles and the labor costs associated with constructing
72 the facility and installing such equipment. This credit shall be
73 claimed in the first taxable year in which the facility becomes
74 operational.

75 (3) No credits shall be allowed under this subsection for the
76 purchase of alternative fuel vehicles purchased in accordance with
77 federal requirements under the Energy Policy Act of 1992.

78 (4) The allowable credits under this subsection shall not exceed
79 \$5,000 per vehicle or \$50,000 for a single alternative fuel facility
80 or \$100,000 for a facility dispensing multiple alternative fuels.

81 (5) The allowable credits under this subsection shall not exceed
82 the total tax liability under this chapter before any other credits
83 are taken into account.

84 (6) In any year in which the credit described in this subsection
85 exceeds the total tax liability under this chapter before any other
86 credits are taken into account, the unused credit, as reduced from
87 year to year, may be carried forward and used against the tax lia-
88 bility for one or more of the succeeding five tax periods.

89 (7) The credit allowed herein shall apply to taxes due for tax-
90 able periods beginning on or after January 1, 2006 and ending on
91 or before December 31, 2011. Such credits, except for unused
92 amounts of credits carried forward pursuant to subparagraph (5),
93 shall not apply to taxable periods beginning on or after January 1,
94 2012.

95 (8) For the period of time this credit is allowed, the commis-
96 sioner shall provide to the department of environmental protection
97 with the following information as it becomes available:

98 (a) number of taxpayers claiming the credit;

99 (b) total dollars of credit claimed;

100 (c) the total number of alternative fuel vehicles for which credit
101 is claimed and the type of fuel that each vehicle is designed to
102 use.

103 (9) The commissioner shall promulgate rules and regulations
104 necessary to implement the provisions of this section.

1 SECTION 2. Chapter 63 of the General Laws, as appearing in
2 the 1996 Official Edition, is hereby amended by adding after
3 section 38P, the following new section:—

4 Section 38Q. A corporation subject to tax pursuant to this
5 chapter shall be allowed a credit against such tax as allowed under
6 subsection (h) of section six of chapter sixty-two provided that:

7 (1) if a corporation is subject to a minimum excise under any
8 provision of this chapter, the amount of the credit allowed by this
9 section shall not reduce the excise to an amount less than the min-
10 imum excise:

11 (2) the credit allowed under this section shall be subject to the
12 provisions of section thirty-two C; and

13 (3) any corporation entitled to a credit pursuant to this section
14 for any taxable year shall apply such credit only to its excise for
15 any of the eligible taxable years. Such credit may not be applied
16 against the excise liability of any other corporation pursuant to an
17 election under the provisions of section thirty-two B.

18 (4) Any corporation entitled to the credit allowed by this
19 section may carry over and apply to its excise for any one or more
20 of the next succeeding five taxable years, the portion, as reduced
21 from year to year, of its credit which exceeds its excise for the
22 taxable year.

23 (5) For the period of time this credit is allowed, the commis-
24 sioner shall provide to the department of environmental protection
25 with the following information as it becomes available:

26 (a) number of taxpayers claiming the credit;

27 (b) total dollars of credit claimed;

28 (c) the total number of alternative fuel vehicles for which credit
29 is claimed and the type of fuel that each vehicle is designed to
30 use.

31 The commissioner shall provide similar information to the divi-
32 sion of energy resources.

33 (6) The commissioner shall promulgate rules and regulations
34 necessary to implement the provisions of this section.

1 SECTION 3. Section 1 of chapter 64E of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 adding the following new subsections:—

4 (l) “Alternative fuel”, any fuel designated as such on an annual
5 list issued by the department of environmental protection,
6 including methanol, denatured ethanol, and other alcohols; mix-
7 tures containing eighty-five percent or more by volume of
8 methanol, denatured ethanol, and other alcohols with gasoline or
9 other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-
10 derived liquid fuels; fuels (other than alcohol) derived from bio-
11 logical materials; electricity (including electricity from solar
12 energy); and any other fuel that the department of environmental
13 protection determines is substantially not petroleum.

14 (m) “Alternative fuel vehicle”, a motor vehicle, as defined in
15 section one of chapter ninety, which the department of environ-
16 mental protection determines to: (1) operate exclusively on an
17 alternative fuel; and (2) meet applicable state and federal safety
18 and emission standards. In addition, for an alternative fuel vehicle
19 less than six thousand pounds gross vehicle weight rating, the
20 alternative fuel vehicle shall meet ultra low emission, inherently
21 low emission, or zero emission vehicle standards, as defined in
22 regulations promulgated by the department of environmental pro-
23 tection, for total vehicle emissions. For an alternative fuel vehicle
24 equal to or greater than six thousand gross vehicle weight rating,
25 the alternative fuel vehicle shall meet federal emission standards
26 for a new comparable vehicle. The department of environmental
27 protection shall publish an annual list of alternative fuel vehicles.

1 SECTION 4. Section 4 of chapter 64E of the General Laws, as
2 so appearing, is hereby amended by adding at the end thereof the
3 following sentences:— No person shall pay an excise pursuant to
4 this chapter for alternative fuel when the alternative fuel is dis-
5 pensed into an alternative fuel vehicle. The exemptions provided
6 in this paragraph shall not apply to any such sales made after
7 December thirty-first, two thousand and two.

1 SECTION 5. Section 1 of chapter 64F of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 inserting the following new subsections:—

4 (g) “Alternative fuel”, any fuel designated as such on an annual
5 list issued by the department of environmental protection,
6 including methanol, denatured ethanol, and other alcohols; mix-
7 tures containing eighty-five percent or more by volume of
8 methanol, denatured ethanol, and other alcohols with gasoline or
9 other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-
10 derived liquid fuels; fuels (other than alcohol) derived from bio-
11 logical materials; electricity (including electricity from solar
12 energy); and any other fuel that the department of environmental
13 protection determines is substantially not petroleum.

14 (h) “Alternative fuel vehicle”, a motor vehicle, as defined in
15 section one of chapter ninety, which the department of environ-
16 mental protection determines to: (1) operate exclusively on an
17 alternative fuel; and (2) meet applicable state and federal safety
18 and emission standards. In addition, for an alternative fuel vehicle
19 less than six thousand pounds gross vehicle weight rating, the
20 alternative fuel vehicle shall meet ultra low emission, inherently
21 low emission, or zero emission vehicle standards, as defined in
22 regulations promulgated by the department of environmental pro-
23 tection, for total vehicle emissions. For an alternative fuel vehicle
24 equal to or greater than six thousand gross vehicle weight rating,
25 the alternative fuel vehicle shall meet federal emission standards
26 for a new comparable vehicle. The department of environmental
27 protection shall publish an annual list of alternative fuel vehicles.

1 SECTION 6. Section 3 of chapter 64F of the General Laws, as
2 so appearing, is hereby amended by inserting after the first sen-
3 tence the following new sentences:— No person shall pay an
4 excise pursuant to this chapter for the privilege of using the high-
5 ways of the commonwealth while operating an alternative fuel
6 vehicle. The exemptions provided in this paragraph shall not
7 apply to any such sales made after December 31, 2011.

1 SECTION 7. Section 6 of chapter 64H of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 adding the following new subsections:—

4 (rr) As used in this subsection and in subsections (ss) and (tt),
5 the following words and phrases shall have the following mean-
6 ings: “Alternative fuel”, any fuel designated as such on an annual
7 list issued by the department of environmental protection,
8 including methanol, denatured ethanol, and other alcohols; mix-
9 tures containing eighty-five percent or more by volume of
10 methanol, denatured ethanol, and other alcohols with gasoline or
11 other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-
12 derived liquid fuels; fuels (other than alcohol) derived from bio-
13 logical materials; electricity (including electricity from solar
14 energy); and any other fuel that the department of environmental
15 protection determines is substantially not petroleum.

16 “Alternative fuel vehicle”, a motor vehicle, as defined in
17 section one of chapter ninety, which the department of environ-
18 mental protection determines to: (1) operate exclusively on an
19 alternative fuel; and (2) meet applicable state and federal safety
20 and emission standards. In addition, for an alternative fuel vehicle
21 less than six thousand pounds gross vehicle weight rating, the
22 alternative fuel vehicle shall meet ultra low emission, inherently
23 low emission, or zero emission vehicle standards, as defined in
24 regulations promulgated by the department of environmental pro-
25 tection, for total vehicle emissions. For an alternative fuel vehicle
26 equal to or greater than six thousand gross vehicle weight rating,
27 the alternative fuel vehicle shall meet federal emission standards
28 for a new comparable vehicle. The department of environmental
29 protection shall publish an annual list of alternative fuel vehicles.

30 “Comparable conventionally-fueled motor vehicle” or “compa-
31 rable vehicle”, a motor vehicle which is (1) commercially avail-
32 able at the time the comparability of the vehicle is being assessed;
33 (2) powered by an internal combustion engine that uses petroleum
34 as its fuel source; and (3) provides passenger capacity or payload
35 capacity the same or similar to the alternative fuel vehicle to
36 which it is being compared. The department of environmental pro-
37 tection shall publish an annual list, to be updated as needed, of
38 comparable conventionally-fueled motor vehicles.

39 “Incremental cost”, the difference between the price paid for
40 the alternative fuel vehicle and the average retail cost of a compa-
41 rable conventionally-fueled motor vehicle. The department of
42 environmental protection shall publish an annual list, to be

43 updated as needed, of the average retail prices of comparable con-
44 ventionally-fueled motor vehicles to be used as the basis for deter-
45 mining incremental cost.

46 Sales of materials, tools and machinery and replacement parts
47 thereof, used directly and exclusively for converting a convention-
48 ally-fueled motor vehicle to an alternative fuel vehicle; and sales
49 of any new alternative fuel vehicle, but only that portion of a sale
50 which is the incremental cost of the alternative fuel vehicle. The
51 exemption provided in this subsection shall not apply to any such
52 sales made after December thirty-first, two thousand and two.

53 (ss) Sales of materials, tools and machinery and replacement
54 parts thereof, used directly and exclusively to dispense alternative
55 fuel into alternative fuel vehicles. The exemption provided in this
56 subsection shall not apply to any such sales made after December
57 31, 2011.

58 (tt) Sales of alternative fuel when dispensed into an alternative
59 fuel vehicle. The exemption provided in this subsection shall not
60 apply to any such sales made after December 31, 2011.

1 SECTION 8. Chapter 164 of the General Laws, as appearing in
2 the 1996 Official Edition, is hereby amended by striking section
3 94½ and inserting in place thereof the following section:—

4 Section 94½. As used in this subsection, the following words
5 and phrases shall have the following meanings:

6 “Alternative fuel”, any fuel designated as such on an annual list
7 issued by the department of environmental protection, including
8 methanol, denatured ethanol, and other alcohols; mixtures con-
9 taining eighty-five percent or more by volume of methanol, dena-
10 tured ethanol, and other alcohols with gasoline or other fuels;
11 natural gas; liquefied petroleum gas; hydrogen; coal-derived
12 liquid fuels; fuels (other than alcohol) derived from biological
13 materials; electricity (including electricity from solar energy); and
14 any other fuel that the department of environmental protection
15 determines is substantially not petroleum.

16 “Alternative fuel vehicle”, a motor vehicle, as defined in
17 section one of chapter ninety, which the department of environ-
18 mental protection determines to: (1) operate exclusively on an
19 alternative fuel; and (2) meet applicable state and federal safety
20 and emission standards. In addition, for an alternative fuel vehicle

21 less than six thousand pounds gross vehicle weight rating, the
22 alternative fuel vehicle shall meet ultra low emission, inherently
23 low emission, or zero emission vehicle standards, as defined in
24 regulations promulgated by the department of environmental pro-
25 tection, for total vehicle emissions. For an alternative fuel vehicle
26 equal to or greater than six thousand gross vehicle weight rating,
27 the alternative fuel vehicle shall meet federal emission standards
28 for a new comparable vehicle. The department of environmental
29 protection shall publish an annual list of alternative fuel vehicles.

30 Notwithstanding the provisions of section ninety-four, or any
31 other special or general law to the contrary, the rates and terms for
32 the sale of alternative fuels for motor vehicle use shall not be sub-
33 ject to regulation by the department of public utilities; provided,
34 however, that any gas or electric company which is otherwise reg-
35 ulated pursuant to this chapter and sells alternative fuels for motor
36 vehicle use, shall keep separate records, books, and accounts of
37 such unregulated sales sufficient to allow the department of public
38 utilities to allocate costs and revenues; and provided further, that
39 such gas or electric company's sale of alternative fuel for use in
40 motor vehicles and investment in related infrastructure shall not
41 affect the quality of service or increase the cost of alternative fuel
42 to said company's customers who purchase alternative fuel for
43 uses other than motor vehicle use.